

## **Minutes of the 93rd JVCC meeting held on Thursday 6 November 2014**

13:30-15:10 in The Auditorium,  
1 Horse Guards Road, London SW1A 2HQ

<b>1</b>	<b>Agenda Item 1 - introductions and apologies</b>	<b>Ian Stewart</b>
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1.1 IS welcomed attendees, among them Rachael Norman, attending for the first time as representative of the Confederation of British Industry.

A list of attendees and apologies is in appendix A.

<b>2</b>	<b>Agenda item 2 – minutes of the last meeting; review of action points; matters arising</b>	<b>Ian Stewart Jon Riley</b>
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2.1 Minutes of the meeting of Tuesday 5 August had been agreed via correspondence and a copy was available on GOV.UK.

2.2 JR gave an update on the two outstanding action points. Details are in appendix B.

<b>3</b>	<b>Agenda item 3 – Update on EU and other international VAT issues</b>	<b>Ian Broadhurst, Mike Cunningham</b>
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### **VAT 2015 changes**

3.1 IB advised that EU level plans for the implementation of the new place of supply rules coming into effect on 1 January 2015 were on track. The vast majority of EU Member States had opened their VAT Mini One Stop Shop (MOSS) registration portals. The UK portal was launched, as planned, on 20 October, and 125 businesses had been registered in the first two weeks – approximately 75% for the Union scheme and 25% for the non-Union scheme. The UK was on track to enable registered businesses to submit their first calendar quarterly MOSS returns by 20 April 2015. HMRC will provide an update on the number of UK MOSS registrations at the JVCC meeting on 10 February 2015.

3.2 On its website the European Commission had published a MOSS Web Portal that brings together key information about the VAT requirements of each Member State. A contact email address for enquiries specific to the new place of supply rules

had also been provided by each Member State. In addition, IB explained that a considerable amount of information about the 2015 changes and MOSS had already been published on GOV.UK. HMRC was in the process of reviewing how the information is presented to make sure that the needs of UK businesses were being met.

### **Standard VAT Return**

3.3 In line with feedback received from businesses, IB reiterated that the UK was keen to ensure that VAT returns should be kept as simple as possible. The high-level UK objective remained to cut red tape for business and to encourage cross-border trade. The Italian Presidency will present a progress report at ECOFIN on 7 November, but any agreement on the composition of a Standard VAT Return remained some way off.

### **OECD work on VAT**

3.4 OECD work on the draft International VAT/GST Guidelines for cross-border trade in services was ongoing. Following the endorsement of guidelines on B2B and Neutrality at the second Global Forum on VAT, work had continued on the next key elements: B2C; Avoidance & Evasion; and Dispute Minimisation. MC said that this tranche of the work would be presented to WP9 later in November. Subject to WP9 agreement, the discussion drafts will be released for public consultation and JR will alert JVCC members once this happens. The aim was to have a completed set of Guidelines in time for the third Global Forum on VAT in November 2015.

### **Other EU issues**

3.5 Following a renewal of its mandate and membership, the EU VAT Expert Group (VEG) had met on 3 November. Membership was comprised of representatives from business and academia and MC asked if any JVCC members were part of the VEG. The corresponding meeting of the Group on the Future of VAT (GFV), made up of officials from Member States, will take place on 7 November. The focus was largely on European Commission work on a definitive VAT system. Ernst & Young had been commissioned to carry out a study and would be reporting back on progress to date. Looking further ahead, an interim report was expected in spring 2015, with a possible wider stakeholder conference in Vienna in March and discussion at a joint GFV/VEG event in the summer. The UK will propose hosting an event to look at closer ways of working between these two groups, although it was

acknowledged that securing a mutually-convenient date was likely to be problematic.

3.6 A Fiscalis event on Immovable Property was taking place in Madrid at the end of November. The aim was to help produce Explanatory Notes for the new Regulations. Formal implementation of the new Regs, which were in line with current UK policy, had been pushed back to 2017. The Vouchers dossier remained under discussion, with the Italian Presidency keen to secure agreement at December's ECOFIN.

3.7 IB encouraged JVCC members to provide JR with advance notice of any EU or international issues that they would like HMRC/HMT to cover at the meetings. PJ said that from a Charity Tax Group perspective forewarning of any Commission proposals to streamline zero rates or get rid of any exemptions would be very welcome. HD asked about HMRC's view of the recent ECJ decision in Welmory (a Polish supply of services case). JR said that after studying the judgment HMRC had concluded there was no impact on current UK policy.

<b>4</b>	<b>Agenda item 4 – Issues for discussion raised by JVCC members</b>	
	<b>Processing times for VAT registration applications from Non Established Taxable Persons</b>	<b>Rhiannon Churchill (ICAEW)</b> <b>Paul Riley (Indirect Tax)</b>
	<b>Re-organisation of work handled by the Non Established Taxable Persons Unit</b>	<b>Dean Carey (ACCA)</b> <b>Paul Riley (Indirect Tax)</b>
	<b>Evidence of identity required to support a VAT registration application where no UK NI number is provided</b>	<b>Rhiannon Churchill (ICAEW)</b> <b>Paul Riley (Indirect Tax)</b>
	<b>Partial exemption and the right to deduct: the cost component of the price doctrine</b>	<b>Peter Jenkins (CTG)</b> <b>Gary Snelling (Local Compliance)</b>

4.1 RCh asked what action HMRC was taking to address reported delays in the processing of VAT registration applications by the Non Established Taxable Persons Unit (NETPU) in Aberdeen. PR advised the delays were the result of resourcing and temporary IT problems. To address the resourcing issues in particular, a decision had recently been taken to move NETPU VAT registration work from Aberdeen to Wolverhampton.

4.2 A dedicated team had been established in Wolverhampton to handle NETPU and MOSS registration cases, which had taken on full responsibility for the NETPU work list on 24 October. The lead time for the processing of registration applications was steadily recovering and, going forward, NETPU customers can expect to receive a speedier service.

4.3 DC commented that, processing delays notwithstanding, he had had only positive experiences of the service provided by NETPU and was concerned that the transfer of the work might impact negatively on this. PR said that the new team in Wolverhampton was made up of experts in processing VAT registrations and the same dedicated contact number would remain in place for customers and advisers wishing to check on the progress of applications. From an HMRC perspective there was greater scope to resource peaks and ensure more flexible working practices.

**AP4/14: JR to seek feedback from JVCC members on the new service for processing VAT registration applications from non-established taxpayers ahead of the next meeting on 10 February 2015**

4.4 Where a customer applying to register for VAT cannot provide a National Insurance (NI) Number, HMRC now required three additional pieces of evidence as proof of identification. RC asked if HMRC would review this requirement in light of the additional administrative burdens it imposed. PR explained that the measure had been implemented to safeguard HMRC's online services from fraudulent attacks. Robust checks on NI numbers were being carried out and in cases where an applicant cannot provide an NI number this additional information provided the same level of assurance. To avoid having to send documents through the post, copies can be scanned and attached to the online registration application. RC asked whether it would be possible to standardise the VAT registration evidence requirements with those of the money laundering regime. PR said he would take this away and look into it.

**AP5/14: PR to look into possible changes to the additional evidence requirements HMRC imposes on customers without a National Insurance Number applying to register for VAT**

4.5 PJ raised concerns on behalf of the Charity Tax Group (CTG) about the way in which HMRC was perceived to be developing and introducing a change to partial exemption policy. The area of policy in question concerned whether the right to deduct input tax is dependent upon VAT-bearing costs being reflected in the price of goods and services, which PJ referred to as the "cost component of the price".

4.6 It was the view of the CTG that the “cost component of the price” approach to input tax deduction had been adopted by HMRC without consultation. Furthermore, there was no reference to the “cost component of the price” in the Partial Exemption Public Notice and nor could the CTG find any basis for it in UK or EU law or case law. PJ said that the CTG was aware that HMRC had been turning down applications for partial exemption special methods (PESMs) on the basis of the “cost component of the price” and for the reasons previously set out this approach could not be justified.

4.7 GS explained that it had long been HMRC’s view that deduction and price were linked. In his paper of 30 May 2014 to the annual VAT Practitioners Group conference, HMRC’s Bruno Giordan had sought to define this link. It was not HMRC’s position that VAT could only be deducted if the VAT-bearing costs were fully reflected in the output price. However, in cases where it was clear that particular costs were not cost components of the price of a taxable supply there had to be a common sense outcome.

4.8 PJ said that evidence the CTG had received showed that this was not the reality on the ground, with PESMs routinely refused by HMRC where input costs were not fully reflected in the price. He considered that this approach was not permissible in law. Given that the relevant HMRC policy experts had been unable to join the meeting, it was agreed that this issue would be brought back to the next meeting on Tuesday 10 February 2015. JO said that HMRC’s recently-revised guidance on VAT and holding companies appeared to have been influenced by the thinking in Bruno Giordan’s paper and that the VIIG would shortly be submitting a paper to HMRC with its views on the revised guidance.

<b>5</b>	<b>Agenda item 5 – VAT Data Sharing</b>	<b>Andrew Tucker</b>
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5.1 In July 2013 the Government consulted on proposals to share non-financial VAT registration data on a controlled basis. Subsequently, HMRC also undertook a research project to assess the potential benefits of the release of this information. The research indicated that a controlled release of non-financial VAT registration data could potentially increase trade credit to VAT-registered businesses by up to £1.8 billion, with small and new businesses likely to be the main beneficiaries.

5.2 The Chancellor of the Exchequer announced plans in Budget 14 to proceed with a controlled release of VAT registration data and the measure was included in the Small Business, Enterprise and Employment Bill currently going through Parliament. AT explained that the clauses in the Bill had been structured so as to

ensure that the data can only be used by qualifying parties for limited purposes and cannot be shared without express permission from HMRC. Criminal sanctions, such as a fine, imprisonment or both, would be applied if data was found to have been misused.

5.3 It was expected that only Credit Reference Agencies (CRAs) will apply for access to the data and HMRC will look closely at the history and business model of each applicant to ensure there was a legitimate reason for their request. In addition, strict independently-certified industry security standards will be required to be met by those companies seeking to acquire the data. We will also need to be satisfied that there is a clear separation of VAT registration data from any inappropriate products. Processes will be put in place to monitor the use of data and discussions were taking place about appropriate reporting mechanisms. If, as expected, the Bill was to receive Royal Assent in March 2015, a first release of data was likely to take place in summer 2015.

5.4 RS asked if data would be shared with CRAs based outside the UK. AT said there was nothing in the legislation to prevent this but it wasn't envisaged. Both AC and RC commented that it was imperative that safeguards were put in place to monitor how the data was being used. AT advised that these were being developed and he would be happy to provide JVCC members with a progress update in due course. IS encouraged members to read the paper published in June 2014 that sets out the findings of the research project. [Post meeting note: a link to the paper was circulated to JVCC members on 19 December.]

<b>6</b>	<b>Agenda item 6 – Any Other Business</b>	
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6.1 TJ advised that at a meeting of the VAT Clearances Joint Working Group earlier in the day, there had been discussion of the transfer of a business as a going concern (TOGC) and clearances. It was HMRC policy not to give a clearance on whether or not there is a TOGC. Alec Tasker from the VAT Supply Policy Team had informed the group that a review and re-write of HMRC's published guidance was underway and had invited members to feed in their thoughts on how the existing TOGC guidance could be made more accessible. It was agreed that in addition to those on the Joint Working Group it would be useful for all JVCC members to have the opportunity to provide feedback on the existing guidance and it was agreed that JR would liaise with Alec Tasker to draft and circulate a commissioning note.

6.3 JR to send out a schedule of JVCC meetings in 2015. [Post meeting note: details circulated to JVCC members on 19 December.]

## Appendix A

### JOINT VAT CONSULTATIVE COMMITTEE (JVCC)

(Meeting no 93)

Thursday 6 November 2014

13:30-15:10, Auditorium

1 Horse Guards Road, London SW1A 2HQ

#### **External Attendees**

Casey Baird (CB)	Finance and Leasing Association
Dean Carey (DC)	Association of Chartered Certified Accountants
Rhiannon Churchill (RCh)	Institute of Chartered Accountants in England and Wales
Ruth Corkin (RC)	VAT Practitioners Group
Adrienne Curtis (AC)	Association of British Insurers
Helene Dinsdale (HD)	One Hundred Group
Leigh Francis (LF)	London & International Insurance Brokers Association
Tony Jackson (TJ)	The Chartered Institute of Taxation
Peter Jenkins (PJ)	Charity Tax Group
Alex Millar (AM)	Association of Accounting Technicians
Rachael Norman (RN)	The Confederation of British Industry
Julian Ogden (JO)	VAT in Industry Group
Richard Sharp (RS)	The Chartered Institute of Management Accountants
Stephen Taylor (ST)	Association of Taxation Technicians

#### **Apologies**

Michele Hood	British Retail Consortium
Alex McDougall	The Institute of Chartered Accountants of Scotland
Martin Scammell	British Property Federation
Colin Scates	Chartered Institute of Public Finance & Accountancy
Martin Shah	The Law Society of England & Wales

#### **HMRC/HMT Attendees**

Ian Stewart (IS)	Director, Indirect Tax Directorate
Jon Riley (JR)	JVCC Secretary, Indirect Tax Directorate

Ian Broadhurst (IB)	Indirect Tax Directorate
Mike Cunningham (MC)	HM Treasury
Paul Riley (PR)	Indirect Tax Directorate
Gary Snelling (GS)	Local Compliance
Andrew Tucker (AT)	Indirect Tax Directorate
Mark Alderton (MA)	Indirect Tax Directorate

**Appendix B**

**Current position on JVCC action points**

AP ref	Detail	Current position
<b>Action points from the meeting on 5 August 2014</b>		
<b>AP2/14</b>	<b>DG to look into the issues raised about VAT publications on GOV.UK and to provide JR with a note for JVCC members</b>	<b>HMRC's Digital Services Team had referred a number of issues raised by members to the Government Digital Service (GDS), which is responsible for the content on GOV.UK. We will provide an update to members as soon as a response is received from GDS</b>
<b>AP3/14</b>	<b>JR to discuss with VAT policy team leaders a process for sharing in draft substantive revisions to VAT Public Notices and guidance</b>	<b>Further to discussions within VAT policy, a more robust process has been put in place for sharing draft guidance with JVCC members</b>
<b>Action points from the meeting on 6 November 2014</b>		
<b>AP4/14</b>	<b>JR to seek feedback from JVCC members on the new service for processing VAT registration applications from non-established taxpayers ahead of the next meeting on 10 February 2015</b>	
<b>AP5/14</b>	<b>PR to look into possible changes to the additional evidence requirements HMRC imposes on customers without a National Insurance Number applying to register for VAT</b>	